

218-1

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**CRM-M-50948-2022
Date of Decision: 17.05.2023**

Rishi Pal

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Abhishek Chha, Advocate
for the petitioner.

Mr. Ram Kumar Singla, DAG, Haryana.

HARSH BUNGER J. (ORAL)

1. Petitioner (Rishi Pal) has filed the present petition under Section 439 of the Code of Criminal Procedure seeking grant of regular bail in case bearing FIR No.576 dated 21.09.2022 (Annexure P-1), under Section 379, 381, 407, 408, 411 read with Section 34 of the Indian Penal Code, registered at Police Station Industrial Sector-29, District Panipat.

2. Upon issuance of notice, custody certificate dated 03.05.2023 of the petitioner has been filed on behalf of State of Haryana, which is already on record.

3. Succinctly, the aforesaid FIR was registered on the complaint of Anuj Guliyani, wherein it was stated that he was the owner of Cosmic Rugs Private Limited, Plot No.137, Sector-29, H.U.D.A.-I. Raw material

cloth arrived in his factory from Mohak Textile Woolens Private Limited

through tractors bearing registration Nos. HR-06-BA-6419 and HR-06-AZ-0212, and one of them was driven by Satbir Narwal, who, in collusion with the factory supervisor, namely Rishipal, embezzled the raw material worth Rs.38,00,000/-.

4. It is borne out from order dated 20.10.2022 passed by the Court of Additional Sessions Judge, Panipat that during the investigation, accused, namely Satbir and Rishipal (petitioner), were arrested on 23.09.2022. The said accused in custody suffered the disclosure statements regarding commission of the offence in question and it was also stated by them that one Surender was also involved in the commission of said offence. However, he could not be traced. Thereafter, the complainant produced bills regarding the raw material cloth in question, whereupon Sections 407 and 408 of the Indian Penal Code were incorporated in the present FIR (Annexure P-1). Subsequently, the aforesaid accused, namely Satbir and Rishipal (petitioner), are stated to have suffered fresh disclosure statements, whereupon the tractors along with trolley in question were got recovered and site plan of the place of recovery was prepared by the police. On 26.09.2022, the amounts of Rs.25,000/- and Rs.20,000/- were got recovered from accused Satbir and Rishipal (petitioner), respectively, which is stated to have come to their share by selling 1150 rolls of raw material cloth to one Surender Kabari. Accordingly, Section 411 of the Indian Penal Code was incorporated in the present FIR (Annexure P-1). When the aforesaid co-accused, namely Surender, was arrested on 27.09.2022, he disclosed the name of co-accused Subham in his disclosure statement, who was also arrested on the same day and the recovery of 810 rolls of raw material cloth and an amount of Rs.4,50,000/-, which he had received by selling the raw

material in question, was effected from the said Subham.

5. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present FIR (Annexure P-1). It is further submitted that the co-accused, namely Subham and Surender, have already been granted the concession of regular bail by the Court of Additional Sessions Judge, Panipat, vide orders dated 29.11.2022 and 02.12.2022 (Annexures P-3 and P-4). Learned counsel for the petitioner states that the petitioner applied for grant of regular bail before the Court of Additional Sessions Judge, Panipat, which was wrongly declined vide order dated 20.10.2022 (Annexure P-2). Learned counsel contends that as on date, the petitioner has undergone custody for a period of more than seven months in the present case; investigation in the case is complete, challan stands presented on 18.11.2022 and even charges have been framed on 22.12.2022. It is further contended that out of the total twelve prosecution witnesses, only six witnesses have been examined by now, and no useful purpose would be served with further incarceration of the petitioner. Learned counsel for the petitioner submits that the petitioner is ready to abide by all the conditions as may be imposed by this Court or by the trial Court, accordingly prayer for grant of regular bail is made.

6. Learned State counsel opposes the plea of petitioner for grant of regular bail on the ground of seriousness and gravity of offences. However, while referring to custody certificate dated 03.05.2023, it is not disputed by learned State counsel that the petitioner is in custody for a period of more than seven months; investigation in the case is complete, challan stands presented and charges have also been framed. It is also not disputed that out of the total twelve prosecution witnesses, six witnesses

have been examined so far. Learned State counsel fairly states that the petitioner is not involved in any other case.

7. I have heard learned counsel for the parties and perused the paper book as well as custody certificate of the petitioner.

8. In this case, the petitioner is in custody for a period of more than seven months (as per custody certificate dated 03.05.2023) and he is not involved in any other case. Investigation in the case is complete, challan stands submitted on 18.11.2022 and even charges have been framed on 22.12.2022. Out of the total twelve prosecution witnesses, six witnesses have been examined by now. Trial in the case is likely to take some time in conclusion, hence no useful purpose would be served by keeping the petitioner behind bars for indefinite period. Moreover, co-accused Subham and Surrender have already been granted regular bail.

9. Keeping in view the aforementioned circumstances, the instant petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate concerned. However, the concerned Station House Officer shall be informed about the release of petitioner and the petitioner shall inform the concerned Station House Officer about his address at which he intends to reside during the pendency of case/trial and any change in the address shall be communicated to the concerned Station House Officer, forthwith. The petitioner would also furnish his telephone number to the concerned Station House Officer. He would also furnish his undertaking to the effect that he will not indulge in any illegal activity. The petitioner shall also appear before the concerned Police Station/Station House Officer on first Monday of every month till the

conclusion of trial and on each such appearance, the petitioner shall submit an affidavit to the concerned Police Station/Station House Officer that he is not involved in any other case, apart from the present one.

10. In addition, the petitioner (or anyone on his behalf) shall prepare a Fixed Deposit Receipt (F.D.R.) in the sum of Rs.50,000/- and submit the same with the trial Court. The same would be liable to be forfeited as per law, in case the petitioner remains absent from trial without any sufficient cause.

11. Nothing expressed hereinabove shall be construed to be an observation on merits of the case and the facts and circumstances recorded above are only for consideration of the prayer for bail at this stage.

12. The petition is accordingly disposed of.

17.05.2023*Apurva***(HARSH BUNGER)
JUDGE**

1. Whether speaking/reasoned : Yes/No

2. Whether reportable : Yes/No